

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNION PACIFIC RAILROAD COMPANY,)

Plaintiff,)

vs.)

**MIKE'S TRAIN HOUSE, INC. d/b/a/
M.T.H. ELECTRIC TRAINS,)**

Defendant.)

8:05CV575

ORDER

This matter is before the court on plaintiff's request for a planning conference (Filing 171) and defendant's response thereto (Filing 175). Also pending are three discovery motions filed by the defendant (Filings 76, 159 & 162), together with the defendant's most recent motion to compel and for sanctions (Filing 174) regarding the Rule 30(b)(6) deposition of Union Pacific Railroad Company.

Considering the nature of the case, the amount of discovery already conducted, the inordinate amount of time the court has already expended on discovery disputes, and the enormous costs associated with this litigation, I see little value in convening another planning conference.

The court realizes that defendant is dissatisfied with plaintiff's conduct as to the Rule 30(b)(6) deposition; however, I believe the parties have conducted more than enough discovery to meaningfully participate in mediation. For that reason, the request for a planning conference will be denied and all pending discovery motions, i.e., Filings 76, 159, 162 and 174, will be held in abeyance pending the completion of mediation.

The parties are hereby ordered to complete the mediation process before **December 31, 2006**. Any discovery motions left pending after the completion of mediation will be immediately referred to a Special Master, at the parties' expense.

IT IS ORDERED:

1. Plaintiff's request for a planning conference (Filing 171) is denied.
2. Defendant's discovery motions (Filings 76, 159, 162 & 174) are held in abeyance pending the completion of mediation. Any discovery motions left pending after the completion of mediation will be referred to a Special Master, at the parties' expense.
3. Counsel shall inform the assigned judge forthwith of the identity and address of the chosen mediator. Mediation shall be completed before **December 31, 2006**. All parties shall prepare for and participate in the mediation in objective good faith. Failure to do so shall be cause for the imposition of sanctions against the offending party and/or counsel.
4. Within five (5) business days after mediation is completed, counsel shall notify the Clerk of the Court of the completion of the mediation procedure and whether the case has settled.

DATED October 11, 2006.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**